



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 29, 1992

Mr. Jeff Hankins
Texas Department of Insurance
Program Division, Legal Services, 110-1C
P. O. Box 149104
Austin, Texas 78714-9104

OR92-280

Dear Mr. Hankins:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 14989.

You have received two requests for information in the possession of an insurance company currently in court-ordered conservatorship. Specifically, the requestor seeks "a list of Policyholders for Midwest Life Insurance Company." You assert that the requested information is in the custody of the judiciary and is therefore not subject to the Open Records Act. See V.T.C.S. art. 6252-17a, § 2(1)(H). You also claim that the requested information is excepted from required public disclosure by section 3(a)(1), in conjunction with section 3A of article 21.28-A of the Insurance Code, and sections 3(a)(4) and 3(a)(10) of the Open Records Act.

Section 3(a) of the Open Records Act provides that "[a]ll information collected, assembled, or maintained by or for governmental bodies, . . . is public information." Section 2(1) defines "governmental body" and section 2(1)(H) explicitly excludes the judiciary from that definition. Records of the judiciary are not subject to the Open Records Act. See Open Records Decision No. 572 (1990); Attorney General Opinion JM-446 (1986) (judicial records held by non-judicial governmental body are not subject to the Open Records Act).

You advise us that the ancillary conservator for the Midwest Life Insurance Company was appointed by order of the Travis County District Court. See *State v. Midwest Life Insurance Company*, No. 91-3653, pt. I(2) (Dist. Ct. of Travis County, 261st Judicial Dist. of Texas, Dec. 20, 1991) (Order Appointing Ancillary

Conservator). Article 21.28-A, section 3A of the Insurance Code generally governs the availability of information relating to a conservatorship under that article. We do not believe that that provision governs the conservatorship at issue here, however, because the conservator was appointed by the court, not the Commissioner of Insurance as provided in section 5 of article 21.28-A. In this case, the judicial appointment of the ancillary conservator placed the ancillary conservator under the direction and control of the court. Accordingly, all records in the custody of the conservator are records of the judiciary, not of the department, and thus are not subject to the Open Records Act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-280.

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Opinion Committee

MRC/GK/lmm

Ref.: ID# 14989
ID# 15318
ID# 15319
ID# 15386
ID# 15400
ID# 15563
ID# 15840

cc: Mr. John Gregory Odom
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